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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,461	09/29/2000	Tom L. Bogart	042390.P9019	1603

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EXAMINER
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KIANERSI, MITRA

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 12/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/677,461

Applicant(s)

BOGART ET AL.

Examiner

mitra kianersi

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claims 1-29 have been examined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al. (US 6,385,647) and further in view of Kalwitz et al. (US 5,784,622).

1. As to claim 1, Willis et al. discloses a method comprising:

- transmitting data over a network using a first network protocol from a host electronic system to one or more target electronic systems; (Abstract, lines 3-8)
- determining data not received by at least one of the target electronic systems; - requesting from the host electronic system,(col 4, lines 36-40)

Willis et al. does not explicitly teach when the data not received by at least one of the target electronic systems using a second network protocol.

However, Kalwitz et al. teach a multiprotocol operation of a networked peripheral Where the first and second servers are linked to their respective operating systems across the local area network through respective first and second protocol stacks operating on the interactive network board and, if desired, the first and second servers may be multitasked by a non-preemptive multitasking monitor. (Col 2, lines 28-34) Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a second network protocol with Willis et al. method of transmitting data to improve scalability and economy through the use of the industry standard non-proprietary software transport mechanism (IP) at the receiving facility.

2. As per claim 2, wherein the first network protocol is a non-reliable network protocol. (multicast routing protocol is used which is an unreliable network protocol, Table 1. Willis et al.)
3. As per claim 3, wherein the non-reliable network protocol comprises one of a broadcast protocol and a multicast protocol. (col 3, lines 55-58, Willis et al.)
4. As per claim 4, wherein the second network protocol is a reliable network protocol. (col 4, lines 41-42, Willis et al.)
5. As per claim 5, wherein determining data not received by at least one of the target electronic systems further comprises logging, with a checkpoint (checksum 345, Willis et al.) management service, packets of data received by the target electronic systems. (Fig.10), (col 16, lines 57-67) and (col 17, lines 1-13, Willis)
6. Claims 6-9, recite similar limitations as claim 1-4. They are analyzed and rejected by the same rationale.
7. As per claim 10, wherein the sequences of instructions that cause the one or more electronic systems to determine data not received by at least one of the target electronic systems further comprise sequences of instructions that, when executed, cause the one or more electronic systems to log, with a checkpoint management service, packets of data received by the target electronic systems. (Processor or chip in a computer that carries out all the instructions of a program, Table 3 and col 9, lines 7-10, Willis et al.)
8. Claims 11-13 recite similar limitations as claim 1-3. They are analyzed and rejected by the same rationale.

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9. Claim 14 recites similar limitations as claim 10. It is analyzed and rejected by the same rationale.

10. Claim 15 recites similar limitations as claim 4. It is analyzed and rejected by the same rationale.

11. As per claim 16, a method comprising: transmitting a predetermined set of data using a first network protocol to multiple target systems; (col 4, lines 48-51, Willis et al.) receiving one or more requests from at least one target system for subsets of data from the predetermined set of data; transmitting the subsets of data to at least one target system using a second network protocol. (Kalwitz et al. Col 17, lines 2-6)

12. As per claim 17, wherein transmitting a predetermined set of data using a first network protocol to multiple target systems comprises logging transmitted packets of data with a checkpoint management service for one or more of the target systems. (Via Checksum verification, col 23, line 19, Kalwitz et al.)

13. Claims 18-19 recite similar limitations as claims 2 and 4. They are analyzed and rejected by the same rationale.

14. Claims 20-23 recite similar limitations as claims 16-19. They are analyzed and rejected by the same rationale.

15. As per claim 24, a method comprising receiving at least a portion of a predetermined set of data from a host system using a first network protocol; loading at least some of the modules from the binary file, col 21, lines 65-67) generating one or more requests from for subsets of data from the predetermined set of data; receiving the subsets of data from the host system using a second network protocol. (processing unit generates a first address in the memory to cause a first bit to be in a predetermined state in response to the I/O signal, col 22, lines 16-18, Kalwitz et al.)

16. Claims 25-29 recite similar limitations as claims 22-26. They are analyzed and rejected by the same rationale.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Kianersi whose telephone number is (703) 305-4650. The examiner can normally be reached on 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-9923.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Mitra Kianersi  
Dec/02/2003



**DAVID WILEY**  
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